

THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA,
a municipal corporation,
441 4th Street, N.W.
Washington, D.C. 20001,

Plaintiff,

v.

ARLETTA MCALLISTER
937 Amer Drive
Fort Washington, Maryland 20744,

KIM MCALLISTER
2701 Q Street, S.E., Apt. 105
Washington, D.C. 20001,

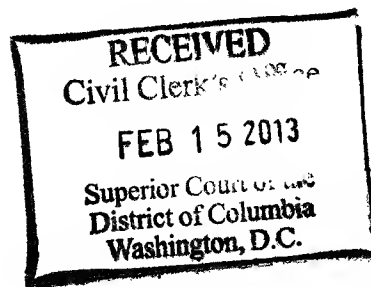
and

BARBARA CAMPBELL
937 Amer Drive
Fort Washington, Maryland 20744,

Defendants.

JURY TRIAL DEMANDED

0001348-13
Civil Action No.: _____



COMPLAINT – STATUTORY AND COMMON LAW FRAUD

The District of Columbia ("District"), by and through its Office of the Attorney General, hereby brings suit against Arletta McAllister, Kim McAllister, and Barbara Campbell, pursuant to D.C. Official Code § 2-381.02(a) (2011 Supp.) and common law, and alleges as follows:

Jurisdiction

1. This Court has jurisdiction over the subject matter of this case pursuant to D.C. Official Code §§ 11-921 & 2-381.02(a). This Court has personal jurisdiction over Defendants pursuant to D.C. Official Code §§ 13-422, 13-423(a)(1) & (a)(3).

The Parties

2. The District, a municipal corporation empowered to sue and be sued, is the local government for the territory ("D.C.") constituting the permanent seat of the government of the United States.

3. Defendant Arletta McAllister is an individual currently residing at 937 Amer Drive, Fort Washington, Maryland 20744. Her son attended a District of Columbia Public Schools ("DCPS") school during the 2010-11 and 2011-12 school years and for a small portion of the 2012-13 school year.

4. Defendant Kim McAllister is an individual currently residing at 2701 Q Street, S.E., Apartment 105, Washington, D.C. 20020. She is Arletta McAllister's mother.

5. Defendant Barbara Campbell is an individual currently residing at 937 Amer Drive, Fort Washington, Maryland 20744. She is Kim McAllister's mother and Arletta McAllister's grandmother and, from 1992 to the end of the 2011-12 school year, was the principal of Langdon Education Campus ("Langdon"), a DCPS school for preschool through eighth grade located at 1900 Evarts Street, NE, 20018.

District of Columbia False Claims Act

6. The District of Columbia Procurement Reform Amendment Act ("The D.C. False Claims Act") provides that:

(a) Any person who commits any of the following acts shall be liable to the District for 3 times the amount of damages which the District sustains because of the act of that person. A person who commits any of the following acts shall also be liable to the District for the costs of a civil action brought to recover penalties or damages, and may be liable to the District for a civil penalty of not less than \$5,000, and not more than \$10,000, for each false claim for which the person:

* * *

(7) Knowingly makes or uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the District

Id. § 2-381.02.

7. The D.C. False Claims Act defines “[k]nowing” or “knowingly” to mean:

(A) . . . that a person, with respect to information, does any of the following:

(i) Has actual knowledge of the falsity of the information; or

(ii) Acts in deliberate ignorance of the truth or falsity of the information; or

(iii) Acts in reckless disregard of the truth or falsity of the information.

(B) Proof of specific intent to defraud is not required for an act to be knowing.

Id. § 2-381.01(3) (2011 Supp.).

Nonresident Tuition

8. D.C. Official Code § 38-302(a)(2) states that nonresident tuition must be paid for each child who attends a public school in D.C. and does not have a parent, guardian, custodian, or other primary caregiver who resides in D.C. Nonresident tuition rates are set by the District’s Office of the State Superintendent of Education to “cover all expenses” incurred by DCPS in educating the student. *Id.* § 38-302(b). The student’s parent or guardian is required by law to make full payment of nonresident tuition prior to the student’s admission for each semester. 5-E DCMR § 2007.

9. “Guardian” is defined as “a person who has been appointed legal guardian of a student by a court of competent jurisdiction.” D.C. Official Code § 38-301(8).

10. “Other primary caregiver” is defined as “a person other than a parent or court appointed custodian or guardian who is the primary provider of care and support to a child who resides with him or her, and whose parent, custodian or guardian is unable to supply such care or

support. . . .” *Id.* § 38-301(10). An individual claiming “other primary caregiver” status must submit documentation to DCPS establishing that the student is in the individual’s care. *Id.* §§ 38-301(10) & 38-310.

Defendant Kim McAllister’s False Statements To DCPS

11. On July 14, 2010, Defendant Kim McAllister signed and filed with DCPS an Annual Student Enrollment Profile for her grandson for the 2010-11 school year. She stated on the enrollment profile form that her grandson lived with her at 2701 Q Street, S.E., Apartment 105, Washington, D.C. 20020, and that she was his legal guardian. She signed the form, certifying that the information provided was accurate and that she understood that “providing false information for purposes of defrauding the government is punishable by law.” She also checked a box on the form indicating that she and her grandson were D.C. residents.

12. Defendant Kim McAllister knew that the information provided on the form was inaccurate because she was not her grandson’s legal guardian and her grandson did not live in D.C. In fact, her grandson lived in Maryland with his mother, Defendant Arletta McAllister, and his great-grandmother, Defendant Barbara Campbell.

13. On August 22, 2011, an individual purporting to be Defendant Kim McAllister filed an Annual Student Enrollment Profile for her grandson for the 2011-12 school year. The form was signed in the name of Defendant Kim McAllister, but the signature was not hers. The form indicated that Defendant Kim McAllister was her grandson’s legal guardian, and listed his address as 2701 Q Street, S.E., Apartment 105, Washington, D.C. 20020.

14. Defendant Kim McAllister’s grandson attended Langdon during the 2010-11 and 2011-12 school years and for the first thirteen school days of the 2012-13 school year. During these periods, Defendant Campbell was Langdon’s principal, and on school days she regularly

drove her great-grandson – Defendant Kim McAllister’s grandson – from their home in Maryland to Langdon.

15. Defendant Kim McAllister’s grandson was Defendant Arletta McAllister’s son. Relying on the statements in the Annual Student Enrollment Profiles, filed on July 14, 2010 and August 22, 2011, DCPS did not charge Defendant Arletta McAllister tuition for her son to attend Langdon. Instead, DCPS enrolled the child without payment of any tuition, as if he were a D.C. resident.

16. Nonresident tuition to attend Langdon was \$12,227.00 for the 2010-11 school year, \$11,629.00 for the 2011-12 school year and \$11,861.00 for the 2012-13 school year.

17. Defendant Arletta McAllister had custody and guardianship of her son and lived with him in Maryland throughout the periods when he attended Langdon. On December 13, 2007, she filed a complaint for custody of her son in the Circuit Court for Prince George’s County, Maryland. In the complaint, she stated that she was her son’s “primary provider.” On January 13, 2011, the Circuit Court entered a consent order awarding Defendant Arletta McAllister primary residential custody of her son. This custody arrangement has never been modified.

Defendants’ Fraudulent Concealment of Non-Resident Status

18. On March 9, 2012, having determined through an investigation that Defendant Arletta McAllister and her son lived in Maryland, DCPS sent a letter to Defendant Arletta McAllister informing her of its intent to exclude her son from Langdon unless she paid the nonresident tuition owed to date.

19. On March 9, 2012, Defendant Campbell made a telephone call to a DCPS investigator to inquire about the possibility of appealing the nonresidency finding. During this

call, she admitted to the investigator that she lived with Defendant Arletta McAllister and her son in Fort Washington, Maryland.

20. On March 15, 2012, Defendant Kim McAllister sent a letter to DCPS requesting an appeal of the nonresidency finding and falsely stating that her grandson lived with her in D.C. DCPS informed her that an appeal would have to be submitted by the child's parent or guardian.

21. On March 22, 2012, Defendant Arletta McAllister sent a letter to DCPS to appeal the nonresidency finding, falsely stating that she and her son lived with Defendant Kim McAllister in D.C. DCPS allowed Defendant Arletta McAllister's son to continue attending Langdon while her appeal was pending.

22. On June 14, 2012, Administrative Law Judge Savannah E. Little of the District's Office of Administrative Hearings heard Defendant Arletta McAllister's appeal. At this hearing, all three Defendants falsely testified that Defendant Arletta McAllister's son was living in D.C. with his grandmother, Defendant Kim McAllister.

23. On September 7, 2012, Administrative Law Judge Little found that Defendant Arletta McAllister's son was not a D.C. resident and that he resided with his mother and great-grandmother at 937 Amer Drive, Fort Washington, Maryland 20744.

24. While the appeal was pending, Defendant Arletta McAllister's son continued to attend Langdon. As a result of the outcome of the appeal, DCPS did not allow Defendant Arletta McAllister's son to attend Langdon after about September 11, 2012.

25. Defendant Arletta McAllister owes the District \$23,856.00 in nonresident tuition for her son's attendance at Langdon during the 2010-11 and 2011-12 school years. She also owes the District \$851.90, a pro rata portion of the tuition charge for the 2012-13 school year, for the thirteen days that her son attended Langdon in August and September 2012.

COUNT I
**Knowingly Makes a False Record or Statement to Conceal,
Avoid or Decrease an Obligation to Pay the District
(D.C. Official Code § 2-381.02(a)(7))**

26. The allegations of paragraphs 1 through 25 are realleged as if fully set forth herein.

27. Defendants knowingly made, used, or caused to be made or used, false records or statements to conceal, avoid, or decrease an obligation to pay the District nonresident tuition for Defendant Arletta McAllister's son. These false records or statements concealed, avoided or decreased an obligation to pay the District, in violation of the D.C. False Claims Act, D.C. Official Code § 2-381.02(a)(7), causing DCPS to decline to charge nonresident tuition for Defendant Arletta McAllister's son to attend Langdon during the 2010-11 and 2011-12 school years and the first two weeks of the 2012-13 school year.

COUNT II
Common Law Fraud

28. The allegations of paragraphs 1 through 27 are realleged as if fully set forth herein.

29. Defendants knowingly made or caused to be made false statements to the District regarding Defendant Arletta McAllister's residency and the custody and residency of her son. They made or caused to be made these false or fraudulent material misrepresentations and failed to disclose material facts that they had a duty to disclose, with actual knowledge of the false and fraudulent nature of those misrepresentations or with reckless disregard for the truth.

30. Defendants intended for the District to act or refrain from acting in reliance on their misrepresentations and, in fact, the District did rely upon those misrepresentations. As a

result, DCPS declined to charge nonresident tuition for Defendant Arletta McAllister's son to attend Langdon during the 2010-11 and 2011-12 school years and the first two weeks of the 2012-13 school year.

COUNT III
Civil Conspiracy to Commit Fraud

31. The allegations of paragraphs 1 through 30 are realleged as if fully set forth herein.

32. Defendants conspired to commit fraud against the District. Each Defendant made fraudulent statements to the District in furtherance of the conspiracy.

33. As a result of Defendants' conspiracy and their fraudulent statements to the District in furtherance of their conspiracy, DCPS declined to charge nonresident tuition for Defendant Arletta McAllister's son to attend Langdon during the 2010-11 and 2011-12 school years and the first two weeks of the 2012-13 school year.

COUNT IV
Unjust Enrichment

34. The allegations of paragraphs 1 through 33 are realleged as if fully set forth herein.

35. To date, Defendant Arletta McAllister continues to owe the District the entire nonresident tuition for her son's attendance at Langdon.

36. By having her son enrolled in a DCPS school during the 2010-11 and 2011-12 school years and the first two weeks of the 2012-13 school year, and avoiding her obligation to

pay nonresident tuition to the District, Defendant Arletta McAllister has been unjustly enriched to the detriment of the District.

WHEREFORE, the District respectfully requests the Court to enter judgment in its favor and against Defendants on its claims, and impose damages and penalties as follows:

(1) Count One – awarding the District, against Defendants, treble statutory damages in an amount to be determined at trial, but not less than \$74,123.70; civil penalties of not less than \$5,000 and not more than \$10,000, payable to the District, for each violation of the D.C. False Claims Act; and the costs of this action, including attorney's fees;

(2) Count Two – awarding the District actual and punitive damages in an amount to be determined at trial, but not less than \$24,707.90, against Defendants;

(3) Count Three – awarding the District actual and punitive damages in an amount to be determined at trial, but not less than \$24,707.90, against Defendants;

(4) Count Four – awarding the District damages in an amount to be determined at trial, but not less than \$24,707.90, against Defendant Arletta McAllister; and


(5) Awarding the District such further and additional relief as the Court may deem just and proper.


The District of Columbia hereby demands a trial by jury by the maximum number of jurors permitted by law.

Respectfully submitted,

IRVIN B. NATHAN
Attorney General for the District of Columbia

ELLEN EFROS
Deputy Attorney General, Public Interest Division


BENNETT RUSHKOFF, Bar No. 386925
Chief, Public Advocacy Section


JANE DRUMMEY, Bar No. 441172
ANDREW H. COSTINETT
Assistant Attorneys General
441 4th Street, N.W., Suite 600-South
Washington, D.C. 20001
(202) 727-2429/724-6591
(202) 741-8901 (desktop fax)
Email: jane.drummey@dc.gov
Email: andrew.costinett2@dc.gov

Date: February 15, 2013

Attorneys for the District of Columbia

¹ Mr. Costinett is licensed to practice law before the Maryland Court of Appeals and is practicing before this Court pursuant to D.C. App. R. 49(c)(4).